

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION**

TODD MICHAEL STEWART,

Plaintiff,

v.

MARY PEBLES, et al.,

Defendants.

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No. 2:17-cv-66-ACL

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Fulton Reception and Diagnostic Center, initiated this case on September 29, 2017. He sought and was granted leave to proceed in forma pauperis, and the Court reviewed the complaint pursuant to 28 U.S.C. § 1915(e). The Court concluded that the complaint was subject to dismissal because plaintiff failed to allege that either of the named defendants were personally involved in, or directly responsible for, the alleged violations of his constitutional rights. In an order dated November 15, 2017, the Court clearly explained the reasons the complaint was subject to dismissal, and gave plaintiff an opportunity to submit an amended complaint to cure the defects. The Court specifically cautioned plaintiff that his failure to timely respond would result in the dismissal of his case without further notice.

Plaintiff's response was due to the Court on December 6, 2017. To date, however, he has neither responded to the Court's order, nor sought additional time to do so. Plaintiff was given meaningful notice of what was expected, and cautioned that his case would be dismissed if he failed to timely comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to prosecute his case and his failure to comply with this Court's November 15,

2017 order. Fed. R. Civ. P. 41(b); *see also Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so); *Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order "directing them to file within fourteen days an amended complaint in conformity with Rule 8"); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

**IT IS HEREBY ORDERED** that the complaint, and all of plaintiff's causes of action against all of the defendants, are hereby **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS HEREBY CERTIFIED** that an appeal from this dismissal would not be taken in good faith.

Dated this 19th day of December, 2017.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

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E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE